

76-6-503.5. Wrongful liens and fraudulent handling of recordable writings

-- Penalties.

(1) "Lien" means:

(a) an instrument or document filed pursuant to Section 70A-9a-516;

(b) an instrument or document described in Subsection 38-9-1(6); and

(c) any instrument or document that creates or purports to create a lien or encumbrance on an owner's interest in real or personal property or a claim on another's assets.

(2) A person is guilty of the crime of wrongful lien if that person knowingly makes, utters, records, or files a lien:

(a) having no objectively reasonable basis to believe he has a present and lawful property interest in the property or a claim on the assets; or

(b) if the person files the lien in violation of a civil wrongful lien injunction pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

(3) A violation of this section is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(4) (a) Any person who with intent to deceive or injure anyone falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording is guilty of fraudulent handling of recordable writings.

(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(5) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.

Enacted by Chapter 93, 2005 General Session